Calendar No. 690

97TH CONGRESS
2d Session

SENATE

REPORT
No. 97-481

ESTABLISHING A MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT IN THE STATE OF WASHINGTON

JUNE 23 (legislative day, JUNE 8), 1982.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 2133]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 2133) to designate certain lands in the State of Washington as a national volcanic area, and for other purposes, having considered the same, reports favorably thereon with an amendment (to the text and an amendment to the title) and recommends that the bill (as amended) do pass.

The amendments are as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Mount St. Helens National Volcanic Monument Act of 1982".

SEC. 2. (a) In furtherance of the purposes of this Act, certain lands within and adjacent to the Gifford Pinchot National Forest, Washington, which comprise of approximately one hundred-five thousand, four hundred acres, as generally depicted on a map entitled "Mount St. Helens National Volcanic Monument," dated May, 1982, are hereby designated as the Mount St. Helens National Volcanic Monument (hereinafter referred to as the "monument") to be administered by the Secretary of Agriculture through the U.S. Forest Service.

(b) As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file a map and a legal description of the monument established under subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatvies. Such may and description shall have the same force and effect as if included in this Act: *Provided*, That correction of clerical and typographic errors in such legal description may be made.

SEC. 3. (a) The Secretary shall administer the monument in accordance with provisions of law applicable to units of the National Forest System and the provisions of this Act in a ma. ner so as to protect the significant geologic, biologic, ecologic, cultural, and human interest features of the area; to facilitate opportunities for continued scientific research in a manner consistent with the per-

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petuation of the significant features of the area; to provide for the interpretation of volcanic and other features for public education and enjoyment; and to provide for recreational and interpretative facilities and opportunities for the use of the public, including public access where appropriate, which are compatible with the purposes for which the monument is established.

(b) Subject to valid existing rights, all Federal lands within the monument are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, and from location, entry and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto.

(c) Commercial timber harvesting shall be permitted within the monument boundaries only as may be necessary to control fire, insects, disease, and other agents that might endanger irreplaceable features within the monument or would cause substantial damage to significant resources adjacent to the monument, or would endanger public safety.

(d) In order to protect the significant features of the monument, reduce user conflicts, and ensure visitor safety, the Secretary is authorized to control times and means of access and use of the monument or parts thereof: *Provided*, That nothing in this section shall be construed as to prohibit the use of motorized vehicles, aircraft or motorboats for emergency and other essential administrative functions, or when necessary, for continued authorized scientific research.

(e) Hunting and fishing shall be permitted within the monument in accordance with applicable Federal and State laws. The Secretary in cooperation with State agencies may designate zones and establish periods when no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Washington with respect to wildlife and fish within the monument.

SEC. 4. Nothing in this Act shall prohibit the Secretary from undertaking or permitting those measures within the monument reasonably necessary to ensure public safety and prevent loss of life and property.

SEC. 5. Nothing in this Act shall be construed as authorizing or directing the establishment of protective perimeters or buffer zones around the monument for the purpose of precluding activities outside the monument boundary which would otherwise be permitted under applicable Federal, State, or local law. Nothing in this Act shall be construed as limiting the existing authority of the Secretary to take actions on Federal lands adjacent to the monument necessary to protect public health and safety in emergencies involving volcanic activity.

SEC. 6. The Secretary is directed to prepare and submit to the Committee on Energy and Natural Resources and the Committee on Interior and Insular Affairs of the House of Representatives within two years of enactment of this Act a management p'an for the monument utilizing, among other information, the data included in the Mount St. Helens Land Management Plan, dated October 1981.

SEC. 7. (a) In furtherance of the purposes of this Act, the Secretary is authorized and directed to acquire in an expeditious manner, the non-Federal lands and interests therein within the boundaries of the monument by exchange, purchase with donated or appropriated funds, or donation: *Provided*, That land owned by the State of Washington shall be acquired only by donation or exchange.

(b) It is the intent of Congress that, to the maximum extent practicable, non-Federal lands and interests within the monument be acquired expeditiously by exchange. Exchanges shall be on the basis of equal value and either party to the exchange may pay or accept cash in order to equalize the value of the property or interests exchanged. It is the sense of the Congress that the exchanges authorized pursuant to this section should be completed within ninety days after the date of the enactment of this Act, except that in the case of mineral and geothermal rights, such exchanges should be completed within one year after such enactment.

(c) Subject to valid existing rights and notwithstanding any other provision of law, the Congress finds that the following Federal lands are suitable for exchange under the terms of this section and so much of these lands and interests as the Secretary determines necessary to equal the value of non-Federal land to be acquired pursuant to subsection (a) of this section, shall be made available for exchange:

T. 10 N., R. 5 E., W.M.
Section 6 (portion)
Section 7 (portion)
T. 11 N., R. 5 E., W.M.
Section 28 (portion)
Section 29 (portion)
T. 8 N., R. 4 E., W.M.
Section 29
Section 30
Section 32
T. 13 N., 3 E., W.M.
Section 6
T. 14 N., 3 E., W.M.
Section 10
Section 16
Section 20
T. 7 N., R. 5 E., W.M.
Section 2 (portion)
Section 3
T. 7 N., R. 6 E., W.M.
Section 1 (portion)
Section 2
Section 4
Section 6
Section 8
Section 10
Section 14 (portion)
Section 22

(d) Nothing in this Act shall affect any prior contractual obligation of BN Timberlands, Inc. or Weyerhaeuser Company regarding lands owned by them and included in an exchange pursuant to this Act nor shall such obligations be transferred by this legislation to the United States.

(e) Notwithstanding any other provision of law, and subject to valid existing rights, National Forest System lands described in subsection (c) are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto for two years beginning upon the date of enactment of this Act.

(f) The identification of the Federal lands described in subsection (c) as suitable for exchange does not vest any legal or equitable rights in such lands to owners of non-Federal lands and interests within the monument, nor does the identification of these lands limit the Secretary's discretion to manage these areas in accordance with applicable law.

(g) In recognition of the rapidly deteriorating nature of much of the timber in the monument, any timber acquired pursuant to this section shall be valued at an amount not less than the fair market value of such timber on July 1, 1982.

(h) Lands and interests acquired pursuant to this section shall become National Forest System lands under the jurisdiction of the Secretary to be managed in accordance with this Act and other applicable law.

(i) The National Environmental Policy Act (83 Stat. 852, as amended) or regulations issued thereunder shall not be construed in whole or part to require the preparation or submission of an environmental assessment or environmental impact statement for any exchange or acquisition made in furtherance of this Act.

SEC. 8. (a) The exterior boundary of the Gifford Pinchot National Forest in the state of Washington, is hereby modified to include approximately fifteen thousand additional acres in Cowlitz County, as generally depicted on the map referenced in section 2 of this Act.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, the boundary of the Gifford Pinchot National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1965.

SEC. 9. (a) There is hereby established the Mount St. Helens Scientific Advisory Board. The purpose of the Board shall be to advise the Secretary with respect to the management measures needed to protect the natural and scientific

values of the monument. The Board may also make recommendations to the Secretary as to research opportunities which may exist within and adjacent to the monument.

(b) The Board shall be composed of nine members, who shall be individuals with recognized professional standing in appropriate scientific disciplines. Members shall be appointed by the Secretary for terms of three years, as follows:

(1) One member from qualified candidates submitted by the Board of Regents of the University of Washington;

(2) One member from qualified candidates submitted by the Board of Regents of Washington State University;

(3) One member from qualified candidates submitted by the Governor of the State of Washington;

(4) One member from qualified candidates submitted by the Commissioner of Public Lands of the State of Washington;

(5) Three qualified members selected by the Secretary, one of whom shall be designated by the Secretary as Chairperson of the Board; and

(6) Two qualified members selected by the Secretary of the Interior (at least one of whom shall be a professional employee of the United States Geological Survey).

(c) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the protection of the monument and the research programs and needs of the area.

(d) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the Chairperson, the expenses reasonably incurred by the Board and its members in carrying out their responsibilities under this Act.

(e) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(f) The Board shall terminate nine years from the date of its initial meeting.

SEC. 10. There is hereby authorized to be appropriated to carry out the provisions of this Act, not to exceed $12 million for the fiscal year beginning October 1, 1982, and such sums as may be necessary for each fiscal year thereafter.

2. Amend the title so as to read: "A bill to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes."

PURPOSE OF THE MEASURE

S. 2133, as reported, would designate certain lands within and adjacent to the Gifford Pinchot National Forest as the Mount St. Helens National Volcanic Monument to be administered by the Secretary of Agriculture through the U.S. Forest Service. The Gifford Pinchot National Forest is enlarged by the addition of approximately 15,000 acres to coincide with the boundary of the monument. The Secretary is authorized and directed to acquire all non-Federal lands in the monument as expeditiously as possible. Certain Federal lands in the Gifford Pinchot National Forest outside the monument are identified as available and suitable for exchange for non-Federal lands inside the monument boundary on an equal value basis. A Mount St. Helens Scientific Advisory Board is also established.

BACKGROUND AND NEED

On March 20, 1980, Mount St. Helens awoke from a 123-year dormant period with numerous small earthquakes. In the ensuing 2 months, larger quakes and significant venting of steam occurred. On May 18, following an earthquake measuring 5.0 on the Richter Scale, an avalanche and lateral explosion destroyed the northern portion of

Mount St. Helens. The blast, accompanied by hot gases, pumice, and ash, devasted more than 235 square miles of National Forest and state and private lands north of the mountain; all vegetation was killed, trees were destroyed or blown down, and 60 people were killed or missing and presumed dead. The large ash cloud that accompanied the eruption reached 63,000 feet in the air and drifted around the world. A covering of ash fallout blanketed large portions of the area. Smaller eruptions, pyroclastic flows, ash clouds, and episodes of non-explosive dome growth have occurred since.

In June 1980, a Mount St. Helens Interdisciplinary Team was organized and began planning for the area. In October 1981, the Forest Service issued its Mount St. Helens Management Plan. The Preferred Alternative identified in the plan provides for the establishment of an 84,710 acre Interpretive Area to protect the significant geologic features in the impact area of the Volcano. Included within the Interpretive Area are 26,080 acres of state and private lands.

As introduced, S. 2133 would closely parallel the recommendations contained in the Forest Service's Preferred Alternative. The legislation would establish an 84,700 acre National Volcanic Area which is identical to the Interpretive Area outlines in the Forest Service's Land Management Plan (LMP). The area would be managed in accordance with the LMP and other applicable law. In addition, S. 2133 would add approximately 20,000 acres to the existing Gifford Pinchot National Forest. This proposed addition, much of which would be included in the Volcanic Area, is necessary to ensure the inclusion of several important features related to the eruption which are not now within the forest boundary.

The measure also directs the acquisition of the 20,000 acres of private and state lands within the Volcanic Area boundaries. The Secretary is authorized and directed to acquire this land by the methods currently available to him, i.e., purchase, donation, or exchange. Finally, because much of the timber on the State and private lands is down and deteriorating at a fairly rapid rate, S. 2133 includes a provision ensuring that timber acquired pursuant to the Act will be acquired at an amount not less than the fair market value of July 1, 1982. This will ensure that the price State and private landowners receive for their timber will not be unfairly depressed by long delays in acquiring the non-federal property in the area.

LEGISLATIVE HISTORY

S. 2133, was introduced February 24, 1982, by Senators Gorton and Jackson. A hearing before the Public Lands and Reserved Water Subcommittee was held in Washington, D.C. on March 12, 1982. A field hearing was held by the Subcommittee on April 7, 1982. At a business session on June 16, 1982, the Energy and Natural Resources Committee ordered S. 2133 favorably reported after adopting an amendment in the nature of a substitute.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on June 16, 1982, by a unanimous vote of a quorum

present recommended that the Senate pass S. 2133, if amended, as described herein.

The rollcall vote on reporting the measure was 20 yeas and 0 nays as follows:

YEAS

McClure
Hatfield
Weicker [1]
Domenici [1]
Wallop
Warner
Humphrey
Murkowski
Nickles
East [1]
Heinz
Jackson
Johnston [1]
Bumpers [1]
Ford
Metzenbaum
Matsunaga [1]
Melcher
Tsongas
Bradley

[1] Indicates voted by proxy.

COMMITTEE AMENDMENT

During the consideration of S. 2133, the Committee adopted an amendment in the nature of a substitute offered by Senator Jackson on behalf of himself and Senator Gorton.

The substitute amendment makes three major changes and a number of minor changes in S. 2133 as introduced. A more thorough discussion of the specific provisions of the substitute may be found in the Section-by-Section Analysis portion of this report.

Size

As introduced, S. 2133 would have designated an area of approximately 85,000 acres as recommended in the Forest Service's Land Management Plan completed in October, 1981. The Committee reported bill includes approximately 105,400 acres.

In contrast, the proposal of the state of Washington would designate a Volcanic Area comprising approximately 113,000 acres. The Mount St. Helens Protective Association has advocated a National Monument encompassing approximately 216,000 acres.

The House version, as reported from the Subcommittee on Forests, Family Farms, and Energy of the House Agriculture Committee and the Subcommittee on Public Lands and National Parks of the House Interior and Insular Affairs Committee, comprises approximately 115,000 acres.

The 20,000 acres of additions included by the Senate Energy and Natural Resources Committee in the bill as reported were made in an

effort to incorporate a representative sample of a number of the areas recommended for inclusion in the area by the State, scientific community, conservation groups, and others who testified at the hearings in Washington, D.C., and in the State. At the same time, the new boundary was drawn in a manner so as to minimize the impacts on timber supplies, mining, private lands, and the adjacent communities.

The additions to the bill as introduced and the approximate acreages follow:

Miners Creek	1,315
Polar Star	1,475
Upper Green River	1,935
Smith Creek/Muddy River	4,005
South Fork, Toutle River	460
Goat Marsh Research Natural Area	1,000
Goat Creek	6,670
North Fork, Toutle River	260
Kipuka	1,760
Castle Creek	1,500
Total	20,380

The Committee notes that with regard to the three areas recommended for inclusion in the monument by the USGS (Smith Creek/Muddy River, Upper Green River, and South Fork, Toutle River) portions of each were included in the area and portions of each were left out. With regard to those lands not included, the Committee is aware that a joint memorandum between the USGS and USFS was prepared on April 28 which recognizes the research and scientific values of these areas. The Committee urges the two agencies to continue to work together to ensure that the scientific and research needs in these areas are adequately addressed.

Designation

As introduced, S. 2133 would have established an 85,000-acre "National Volcanic Area." This designation corresponds to the one made administratively by the U.S. Forest Service last Fall. As reported, the bill re-designates the area as a "National Volcanic Monument" to be administered by the Forest Service in accordance with the laws generally applicable to the National Forest System and the specific provisions of the Act.

Many witnesses at the hearings in Washington, D.C., and in Washington State urged the Committee to utilize a "National Monument" classification rather than a Volcanic Area. The reasons generally given for urging proposed change included the following:

A reluctance to create a new land classification within the national forest system; and

Tourism in the area will be enhanced since the public is more familiar with the concept of a monument than a volvanic area.

Because of these and other concerns, the substitute amendment approved by the Committee changes the designation from a "National Volcanic Area" to a "National Volcanic Monument." As was the case with the bill as introduced, the Forest Service is to administer the Monument in accordance with its existing authorities and the special management provisions of the Act.

Management language

As introduced, S. 2133 provided only that the area was to be managed in accordance with the Mount St. Helens Land Management Plan prepared by the U.S. Forest Service in October, 1981, and other laws applicable to units of the National Forest System.

Much testimony was received during the hearings on S. 2133 urging the Committee to adopt more specific management language for the area. In response to these concerns, the draft includes some statutory management language designed to address several particular management concerns and at the same time retain a high degree of management flexibility for the Forest Service. Many of these provisions were taken directly from the final management plan.

Specific language has been included regarding such things as timber harvesting, mining, hunting and fishing, access, public safety, and buffer zones as well as a comprehensive statement of the purposes for which the area is to be managed. With regard to those matters not addressed specifically in the bill, the U.S. Forest Service is to utilize its existing authorities for management of units of the National Forest System contained in other applicable law including the National Forest Management Act, the Forest and Rangeland Renewable Resources Planning Act, Multiple-Use and Sustained Yield Act, etc. to manage the area.

In addition to these major differences, the Committee reported bill also makes several changes in the language regarding the proposed land exchanges in the area; provisions were added establishing a Scientific Advisory Board for the Monument; and a more specific authorization section has been included.

SECTION-BY-SECTION ANALYSIS

Section 1

This section provides a short title for the Act—"The Mount St. Helens National Volcanic Monument Act of 1982."

Section 2

Section 2 establishes, by map reference, a Mount St. Helens National Monument of approximately 105,400 acres to be administered by the Secretary of Agriculture through the USFS; and directs that the official map and the legal description be filed with the appropriate Committees of Congress.

Section 3

This section sets forth the general framework for administering the Monument and provides management direction with regard to several specific circumstances.

Subsection (a) establishes the purposes for which the Monument is to be administered. This language gives the Secretary clear overall management direction for the area, while retaining his flexibility to utilize his existing authorities to deal with circumstances as they arise.

Subsection (b) withdraws the federal lands within the Monument from appropriation or disposal under the public land laws; location, entry and patent under the mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing. The withdrawal

is subject, of course, to valid existing rights. The Committee notes the existence of a number of mining claims for copper in the Polar Star/ Green River area. Although the agreed-upon boundary excludes the majority of these claims, some are included in the monument as reported by the Committee.

The Committee notes that nothing in the bill as reported would prevent the holders of these claims from developing the mineral or proceeding to patent. There is no intention that these claims be acquired. As the claims are located just inside or contiguous to the boundary, access to the claims will not be a problem. Under the U.S. mining laws, the claimants have the right of access to their valid claims regardless of the location relative to the monument boundary. The phrase "Subject to valid existing right" fully protects whatever rights the claimants may have.

Subsection (c) generally prohibits timber harvesting within the Monument. Exceptions are provided for measures necessary to control fire, insects, or disease when such threats might endanger monument features, cause substantial damage to resources adjacent to the Monument or endanger public safety.

Subsection (d) gives the Secretary the authority to control access in the area to reduce user conflicts, ensure visitor safety, and protect significant features of the Monument. The language makes it clear that motorized vehicles may be used for emergency and other essential administrative functions or when necessary for authorized scientific research.

The Committee notes that authorized scientific research is one of the basic purposes of the bill. While some limitations on motor vehicle uses may be necessary, in general uses of motor vehicles for authorized scientific purposes will be allowed by the Secretary.

The Monument is likely to become a major tourist attraction for the area. The Secretary is expected and the final management plan anticipates to provide for reasonable public access to and visitor facilities in the interior of the Monument, to the extent compatible with visitor safety and the protection of the significant geological and other resources of the area. The Committee notes that there are also opportunities for the enhancement of tourism on federal and non-federal lands adjacent to the Monument. It is expected that federal and non-federal lands adjacent to the Monument will be used for, among other things, commercial forestry and other uses requiring road access. The Secretary may need to maintain and use, or permit others to use, limited portions of roads inside the Monument for providing access to lands outside the Monument boundaries, where use of such roads will not adversely affect unique geological features or unreasonably interfere with public use of the Monument. Access to the Monument, including the construction and re-construction of roads and trails in and around the area is something which should be given careful consideration during the preparation of the management plan for the Monument required by Section 6 of the Act.

Subsection (e) makes it clear that, subject to reasonable limits, hunting and fishing is to be permitted within the Monument in accordance with applicable state and federal law.

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Section 4

This section reaffirms the Secretary's existing authority under other law to take those measures necessary within the Monument to ensure public safety and prevent loss of life and property. Moreover, nothing in this section affects the authorities of the State of Washington with regard to fish and wildlife within the Monument.

Section 5

Section 5 addresses the issue of buffer zones by stating expressly that the bill does not authorize or direct the establishment of such zones. The Committee notes that the purpose of this bill is to provide special management designation for the Monument different than and in contrast to the management of adjacent lands, which are expected to be managed for a variety of uses. It is not intended that existence of the Monument interfere with lawful uses of other federal and non-federal lands in the area, through establishment of buffer zones or protective perimeters. The Secretary is directed to manage the Monument in ways which minimize any adverse effects of visitor use on adjacent lands. The language of Section 5 makes it clear, however, that the Secretary should not be precluded from exercising his existing authority to take actions on federal lands adjacent to the Monument, necessary to protect public health and safety in the event of a volcano-related emergency.

The Committee recognizes that use of adjacent lands may require minor temporary encroachments into the Monument for surveying, fire protection, tail-holds and guylines for logging, removal of dangerous trees and similar hazards, and other minor intrusions for the protection of the public. The Secretary is directed to allow, in any conveyance to the United States under this Act, reservation of such rights along the extreme fringes of the Monument where absence of such reservations might create liability for severance damages to contiguous lands and where such reservations would not adversely affect unique geological features or unreasonably interfere with public use of the Monument.

Section 6

Section 6 directs the Secretary to prepare and submit to the appropriate Committees of Congress a management plan for the Monument.

Section 7

This section authorizes and directs the Secretary to acquire the approximate 29,500 acres of non-federal lands within the Monument. The vast majority of this non-federal land is owned by Weyerhaeuser Corporation, Burlington Northern Timberlands, Inc., and the State of Washington.

Subsection (a) gives the Secretary the authority to acquire these non-federal lands by exchange, purchase with donated or appropriated funds, or by donation. Lands owned by the state of Washington may only be acquired by exchange or donation.

Subsection (b) expresses the intent of Congress that, to the maximum extent practicable. non-federal lands and interests within the Monument are to be acquired by exchange as expeditiously as possible. The Committee is aware that significant progress has been made be-

tween the Forest Service and the largest non-federal landowners in the area, Burlington Northern, and Weyerhaeuser, and expects that the vast majority of the non-federal lands within the Monument will be acquired by exchange within 90 days of the date of enactment. Of course, the rights and responsibilities of the respective non-federal landowners shall remain with such owners until such time as the non-federal lands are acquired pursuant to the Act. The Committee also recognizes that acquisition (by exchange) of the non-federal mineral interests inside the Monument may take slightly longer than 90 days.

Subsection (c) identifies a "pool" of lands administered by the USFS to be suitable and available for exchange under the provisions of the Act. The designation of this "pool" is specifically intended as a mechanism to expedite and guide the exchange process. The "pool" so identified is large enough to easily accommodate the non-Federal lands affected by the bill, as reported.

The Committee notes that the Secretary currently has the authority to acquire non-Federal lands within the boundary of most units of the National Forest System. In this regard, in addition to the non-Federal lands within the Monument boundary, Burlington Northern owns certain lands adjacent to the Monument boundary which they would like to exchange in an effort to help consolidate Burlington Northern and Forest Service ownership in the area. Consequently, the "pool" of Forest Service land identified in this subsection is large enough to accommodate these lands outside but proximate to the Monument boundary.

Subsection (d) recognizes that certain lands owned by Burlington Northern Timberlands, Inc., to be included in the Monument are subject to a contract under which International Paper Company has a right to cut and remove timber until the year 2000. International Paper considers the contract to be a considerable asset to it. This subsection provides that the United States shall not assume Burlington Northern's obligations under the contract nor shall any rights International Paper may have against Burlington Northern be extinguished by an exchange of lands between Burlington Northern and the United States

Before the United States acquires the Burlington Northern lands, it is desirable that there be a resolution between the two companies of the timber cutting rights of International Paper. The Committee urges the two parties to continue to work diligently to achieve this resolution.

Subsection (e) withdraws subject to valid existing rights the lands within the "pool" from disposition under the mining and mineral leasing laws, including geothermal leasing, for a period of two years from the date of enactment so that the land will not become encumbered by such dispositions while the exchange is being completed.

Subsection (f) makes it clear that the identification of lands for inclusion in the "pool" does not vest any legal or equitable rights in such lands to the non-federal landowners nor does such designation limit the Secretary's discretion to manage these areas in accordance with applicable law.

Subsection (g) addresses the issue of the deteriorating nature of much of the timber in the area. The Committee recognizes that substantial volumes of non-federal timber killed by the May 18, 1980, eruption remain within the Monument. This timber is subject to rapid deterioration if not salvaged. Although this Act does not prevent the

non-federal landowners from salvaging this timber on private lands, the Committee expects these lands and timber to be acquired by the United States under this Act and left to maintain the natural condition of the area after the blast. To induce the non-federal owners to leave this timber, the bill provides that any such timber exchanged or otherwise acquired by the United States shall be valued at not less than its value as of July 1, 1982, regardless of any subsequent reduction of its quality, quantity or market value from any cause.

Subsection (h) ensures that non-federal lands within the Monument acquired pursuant to the Act are to become a part of the National Forest System and administered accordingly.

Subsection (i) makes it clear that the exchanges contemplated in the Act will not necessitate the preparation of an environmental impact statement or assessment pursuant to the NEPA. The Congress, by enacting this legislation, has identified through testimony received from the Forest Service and public witnesses, as well as other available information, certain National Forest lands to be available for exchange and found them suitable for such purposes, subject to an equal value determination by the parties. Under these circumstances, and in light of the desire by all parties to acquire the non-federal lands within the Monument as rapidly as possible (and the considerable progress that has already been made between the parties in this regard) the Committee agreed to this exemption.

Section 8

This section extends the boundary of the Gifford Pinchot National Forest to include approximately 15,000 additional acres—primarily along the North Fork of the Toutle River—to include important geologic features associated with the region's early and recent volcanic history. To help facilitate management, the substitute alters the boundary contained in S. 2133 as introduced so that the forest boundary and the Monument boundary are the same in this area.

Section 9

Primarily in response to concerns raised by the state of Washington, a new section (Section 9) was added to S. 2133 as introduced establishing a Scientific Advisory Board for the Monument. The Board is to advise the Secretary with respect to management activities needed to adequately protect the natural and scientific values in the Monument and for the purposes of recommending research opportunities within the area. The Committee expects that persons will be chosen to serve on the Board on the basis of technical expertise, and professional experience.

Section 10

This section authorizes appropriations for the Monument for fiscal year 1983 and beyond. A total of $12 million has been authorized for fiscal year 1983 and such sums as may be necessary for fiscal years thereafter. A more specific analysis of the costs associated with S. 2133 as ordered reported can be found in the "Cost and Budgetary Considerations" section of this report.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., June 22, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for S. 2133, the Mount St. Helens National Volcanic Monument Act of 1982.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

CONGRESSIONAL BUDGET ESTIMATE—COST ESTIMATE

1. Bill number: S. 2133.
2. Bill title: Mount St. Helens National Volcanic Monument Act of 1982.
3. Bill status: As ordered reported by the Senate Committee on Energy and Natural Resources, June 16, 1982.
4. Bill purpose: This bill designates 105,400 acres of land in Washington as the Mount St. Helens National Volcanic Monument, and directs the Secretary of Agriculture to prepare a management plan for the monument within two years of enactment of this act. The bill also directs the Secretary of Agriculture to acquire non-Federal lands within the boundaries of the monument by purchase or exchange and specifies certain lands which are to be made available for this exchange. In addition, the bill amends the boundaries of the Gifford Pinchot National Forest to include all lands included in the monument, and establishes the Mount St. Helens Scientific Advisory Board to make recommendations regarding the protection of the natural and scientific values of the monument.

In October 1981, the Chief of the Forest Service administratively designated the Mount St. Helens National Volcanic Area on 84,700 acres of land in Washington. This bill gives legislative approval to the designation and expands the size of the monument by 20,700 acres. In addition, the bill authorizes the appropriation of funds to be used for the designated monument.

5. Cost estimate: The estimated budget impact from establishment, development, operation, and maintenance of the Mount St. Helens National Volcanic Monument is summarized in the following table:

	Millions
Estimated authorization level:	
Fiscal year:	
1983	$12
1984	----
1985	14
1986	22
1987	4
Estimated outlays:	
Fiscal year:	
1983	3
1984	6
1985	17
1986	22
1987	4

Most of the above costs could be incurred without this legislation, as a result of the administrative designation of the national volcanic area.

In addition to the estimated outlays shown above, receipts of up to $500,000 per year from the sale of timber may be forgone by the federal government as a result of the national monument designation. Moreover, it is anticipated that outlays of approximately $15 million will be incurred by the federal government during the three years following the projection period.

The costs of this bill fall within budget function 300.

6. Basis of estimate: For the purpose of this estimate, it is assumed that this legislation will be enacted prior to the beginning of fiscal year 1983 and that all funds authorized will be appropriated.

The Secretary of Agriculture is directed to prepare a comprehensive management plan for the monument within two years of enactment of this bill. It is expected that the development of this plan will cost the federal government approximately $300,000 in each of the fiscal years 1983 and 1984. In addition, the Secretary of Agriculture is directed to acquire, either by purchase or by exchange, all nonfederal land within the Monument boundaries. This estimate assumes that the bulk of nonfederal land will be acquired by exchange; it is anticipated that only very small landholdings will be purchased at a cost to the federal government of approximately $150,000 in each fiscal years 1983 and 1984. (The value of land and timber expected to be exchanged as a result of enactment of S. 2133 is approximately $8 million). This bill also establishes the Mount St. Helens Scientific Advisory Board and provides for payment by the federal government of expenses incurred by the board. It is expected that these expenses will be approximately $10,000 per year.

Based on information from the National Forest Service, it is estimated that capital investments and operation and maintenance costs associated with the monument designation will be approximately $51 million from 1983 through 1987.

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Debbie Goldberg.

10. Estimate approved by:

C. G. Nuckols
(For James L. Blum,
Assistant Director for Budget Analysis).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 2133.

The bill is not a regulatory measure in the sense of imposing government-established standards or significant economic responsibilities on private individuals or businesses. S. 2133, as reported, would designate certain lands in and adjacent to the Gifford Pinchot National Forest in the State of Washington as a National Volcanic Monument. No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little if any additional paperwork would result from the enactment of S. 2133.

EXECUTIVE COMMUNICATIONS

A legislative report on S. 2133 from the Department of Agriculture was requested by the Committee on March 10, 1982. No legislative report had been received at the time this report was filed. The Administration's testimony in support of S. 2133 as introduced, with several amendments and a June 9 letter from Assistant Secretary of Agriculture John B. Crowell, Jr. to Senator McClure expressing concerns regarding this matter follows:

STATEMENT OF DOUGLAS R. LEISZ, ASSOCIATE CHIEF, FOREST SERVICE, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and members of the committee: I am pleased to have this opportunity to present the Administration's views on S. 2133, a bill that would establish a 84,700-acre Mount St. Helens National Volcanic area on the Gifford Pinchot National Forest in the State of Washington. The area would be administered by the Secretary of Agriculture in accordance with the Mount St. Helens land management plan. The bill directs acquisition of all non-Federal lands within the volcanic area by acquisition, exchange, or donation. I will take this opportunity to briefly update the committee on implementation of the Mount St. Helens land management plan that was completed in October 1981.

Background

Mount St. Helens is a unique area of international scientific and public interest. Following the eruption in 1980, the Forest Service undertook development of a Mount St. Helens land management plan. The plan is a product of more than a year's work by numerous Forest Service planners, scores of local, State, and other Federal agencies, and comments from more than 1,000 people who responded to the draft environmental impact statement.

The Mount St. Helens land management plan and associated Final Environmental Impact Statement provided: (1) for the establishment of an 84,710-acre National Volcanic area to protect scenic geological features in the volcano impact area for public education, interpretation, recreation, and research and (2) the management of 87,450 acres

of National Forest System lands surrounding the volcanic area for a variety of uses. These adjacent lands include 5,700 acres for unroaded recreation in the Goat Mountain and Strawberry Mountain areas; a 60-acre botanical area to preserve a stand of large old-growth trees in Quartz Creek; 16,810 acres of prime habitat for deer, elk, and wildlife species dependent on old growth; 64,880 acres of general forest to be managed for a variety of uses including timber growing and harvest; and continued protection of two research natural areas totaling 1,950 acres.

We have adopted the land management plan and on October 16, 1981, an 84,710-acre Mount St. Helens National Volcanic Area was established by the Chief of the Forest Service for purposes of providing for safe public use and protecting the unique and special resources of the area. We believe this National Volcanic Area designation and the management provisions set forth in the Mount St. Helens land management plan adequately provide for protection of this unique area.

Since completion of the plan, we have proceeded with planning and implementation of a number of activities including transportation system planning and reconstruction, evaluation of visitor center sites, research, and salvage timber sales outside the National Volcanic Area. I will summarize progress of our timber salvage, in detail later in my statement.

Provisions of S. 2133

The National Volcanic area proposed in S. 2133 includes approximately 84,700 acres and adopts the boundaries proposed in the Mount St. Helens land management plan. This is the same area that was administratively-designed as the Mount St. Helens National Volcanic Area by the Chief of the Forest Service on October 16, 1981.

The bill would extend the boundaries of the Gifford Pinchot National Forest to include approximately 21,000 acres of State and private lands. The Secretary would be authorized and directed to acquire all State lands within the National Volcanic Area by exchange or donation and to acquire all private lands by purchase, exchange, or donation. The timber on State and private lands would be valued at fair market value as of July 1, 1982.

State and private lands

The 84,700-acre National Volcanic Area includes 24,510 acres of State and private lands. The principal landowners are Weyerhaeuser Company with 15,270 acres. Burlington Northern with 5,020 acres and the State of Washington with 4,060 acres. Approximately 11,370 acres of these State and private lands within the National Volcanic Area are outside the present boundary of the Gifford Pinchot National Forest.

We recognize the urgency for determining the ultimate management of the State and private lands within the National Volcanic Area and have determined that acquisition by a combination of purchasing in fee or partial interests, donations, and land exchange offers the best opportunity for acquiring the majority of the State and private lands within the 84,700-acre National Volcanic Area. We anticipate acquiring approximately 15,000 acres of State and private lands mostly through exchange or donation. We do not plan to exchange the State

lands within the volcanic area and believe these lands either should be donated or managed in keeping with the objectives of the volcanic area. The exact acreage of National Forest System lands to be exchanged would depend on the value of land being offered. We believe that acquisition of approximately 15,000 acres of State and private lands will provide sufficient control to meet the objectives of the plan and acquisition of all State and private lands is not necessary.

S. 2133 provides additional authorities needed

We have determined that additional legislative authority is required to implement certain provisions of the Mount St. Helens land management plan dealing with exchange and acquisition of lands and interest in lands outside the boundaries of the Gifford Pinchot National Forest. We recognize the national interest in protecting this area and support a congressionally-designated National Volcanic Area to be managed in accordance with the existing land management plan. Therefore, we support the provisions of S. 2133 that would designate an 84,700-acre Mount St. Helens National Volcanic Area to be administered by the Secretary of Agriculture in accordance with a plan developed for the area. We also support the proposed extension of the Gifford Pinchot National Forest boundary to include approximately 21,000 acres. This boundary change would enable the Secretary to use existing authorities to meet the objectives of the land management plan.

We are pleased that the provisions in section 4(b) include the opportunity to acquire State and private lands by donation. Since the initial eruption of Mount St. Helens, there has been a close-working relationship among the many Federal and State agencies and private owners. Many have participated in the subsequent salvage, rehabilitation, and planning activities. We believe the option of donations by State and private land owners should be available.

We recommend amending the provisions of section 4(b) that would require the Secretary to acquire all non-Federal land and interests in land within the volcanic area by exchange, purchase, or donation. We recommend that the Secretary have some discretion to determine which lands should be acquired either in fee or partial interest. We do not believe it is necessary to acquire all lands in order to protect and manage the volcanic area.

Status of timber salvage

We plan to sell a total salvage volume of 934 million board feet outside the boundaries of the National Volcanic Area. To date, we have sold 27 sales with a volume of 427 million board feet. One sale with 11.5 million board feet is completed. There are currently 4 sales under advertisement with a volume of 84 million board feet. In the remainder of FY 1982, we will advertise 22 sales with a volume of 423 million board feet.

This concludes my prepared statement. I am accompanied by Mr. Duane Tucker, Deputy Supervisor of the Gifford Pinchot National Forest, and together we will be happy to respond to any questions you may have.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., June 9, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate.
Washington, D.C.

DEAR MR. CHAIRMAN: I understand that the Senate Committee on Energy and Natural Resources plans to consider legislation dealing with proposals to establish the Mount St. Helens volcanic area.

As you know, the Forest Service in October 1981 administratively designated 84,700 acres of the Mount St. Helens area as a National Volcanic Area. This was done after careful consideration of different proposals advocating that the specially designated area be anywhere from 45,000 acres to 216,000 acres. The final administrative decision balanced the interests (1) in preserving the area affected by the volcano's blast of May 18, 1980, (2) in permitting salvage of timber killed by the blast,(3) in holding down the cost of acquiring intermingled private land as part of the area to be designated, (4) in limiting reductions in future timber production and harvest levels which would result from special designation, (5) in providing the potential mineral development within the Green River drainage, (6) in providing for research needs, and (7) in assuring public safety, including the reduction of huge fuel accumulations presently existing which could permit future forest fires to get out of control.

The Administration has supported statutory designation of the 84,700-acre area as a National Volcanic Area. The Administration, however, is opposed to enlargement of the area because it would upset the balancing of interests which was carefully achieved after much deliberation by the original administrative designation.

I enclose a paper which discusses briefly, but in some detail, the various considerations which have led us to conclude that the Administration cannot support any legislation which would result in special designation of more than the 84,700-acre already administratively designated. I hope that you will reach the same conclusions we have after you have considered the points discussed in the enclosed paper.

Sincerely yours,

JOHN B. CROWELL, JR.,
Assistant Secretary for
Natural Resources and Environment.

Enclosure.

ADMINISTRATION CONCERNS REGARDING PROPOSED LEGISLATION FOR MOUNT ST. HELENS

Background

The Administration supports legislation designating an 84,700-acre Mount St. Helens National Volcanic Area. The 84,700-acre National Volcanic Area includes 24,510 acres of State and private lands. The Administration proposed acquisition of approximately 15,000 acres of State and private lands through exchange or donation.

A proposal being developed in the Senate would substantially increase the size of the volcanic area and direct acquisition of all State and private lands within the area. This proposal includes nearly twice as much productive forest lands, timber volumes and values as compared to the Administration's proposal. It would result in significant increased costs because of more land acquisition, foregone timber salvage opportunities, and reduced future timber harvest levels on the Gifford Pinchot National Forest. The reduced salvage opportunities would greatly increase the potential for a major wildfire conflagration which would be uncontrollable during periods of very high and extreme fire hazard. These and other concerns are described in greater detail below.

Increased wildfire hazard

More than 80 percent of the blast area is characterized by heavy volumes of downed trees and other vegetative debris, amounting to 300 tons per acre in many locations. These fuels create the potential for a major conflagration. One objective of timber salvage outside the volcanic area is to reduce the hazard of wildfire so as to prevent the spread to adjacent undamaged National Forest and private forest lands. Timely timber salvage in key areas will substantially reduce this high potential hazard. The Senate proposal would reduce planned timber salvage by 22 percent.

Acquisition of private lands

The Administration's proposal would provide for acquiring 15,000 of 24,500 acres of private lands by exchange or donation. The pending proposal would mandate acquisition of all State and private lands in the volcanic area. Estimated acreages and values are as follows:

	Acres	Value (millions)
Administration position	15,000	$4.5
S. 2133 (84,700 acres)	24,500	7.4
Senate proposal	27,255	8.2

Any land exchange will reduce the National Forest capability to maintain harvest levels. Timber sale receipts foregone could reach $500,000 annually. In addition, there will be a corresponding reduction in payments to the counties.

ESTIMATED COMPARATIVE VALUES MOUNT ST. HELENS LEGISLATION

Total	Administration	Senate
Total acres	84,700	103,460
Private land	15,000 (24,500)	27,255
Productive forest land	15,200	33,445
Timber volume [1] (million board feet)	633	1,108
Timber value [1] (millions)	$115	$187
Land value [1] (millions)	$25	$30
Total value [1] (millions)	$140	$216

[1] All ownerships.

Impacts on timber resources

Productive forest lands [1] *affected.*—Administration: 15,200 acres capable of growing 7.2 million board feet/yr. Senate: 33,445 acres capable of growing 15.9 million board feet/yr.

Timber volumes and values in national volcanic area not subject to salvage logging or to future harvesting

	Millions
Administration:	
Board feet	633
Value	$115
Senate:	
Board feet	1,108
Value	$187

Planned timber salvage outside national volcanic area.—Administration: 888 million board feet. Senate: 696 million board feet—192 million board feet reduction (22 percent reduction by inclusion within the area).

Pending copper claims

At the present time, there are approximately 100 mining claims on 1,500 to 2,000 acres in the Polar Star/Green River area with approximately 13 that are in the process of being patented. The primary mineral is copper which is estimated to be valued at $500 million. The Senate proposal includes approximately 500 acres of these claims.

Areas not justifiably part of the volcanic area

The Senate proposal adds several areas totaling approximately 8,500 acres (Goat Creek and Kipuka) that do not contain significant volcanic features. These areas are not appropriate additions to the National Volcanic Area.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 2133, as ordered reported.

[1] This is forest land which is producing or capable of producing crops of wood. This includes areas suitable for management to grow crops of wood. Areas are generally of a site quality capable of producing in excess of 20 cubic feet per acre of annual growth. This includes both accessible and inaccessible areas. Permanently inoperable or nonstockable areas are excluded because they are not suitable for silvicultural management. Conversely, nonstocked areas which are stockable and otherwise meet this definition are included.

Although the volume figures shown here may be greater than the annual timber yield that can be obtained on a multiple use, sustained yield basis utilizing intensive forest management practices (potential yield), it does provide a comparison of timber productivity for the two proposals.

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